



## AMERICAN CANOE ASSOCIATION

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Water Docket  
U.S. Environmental Protection Agency  
Mail code 2822T  
1200 Pennsylvania Ave. NW  
Washington, D.C., 20460

Dear Friends:

Thank you for the opportunity to provide comments on the Chesapeake Bay Draft TMDL. We commend EPA for taking this important step to protect and restore the Chesapeake Bay.

### **I. Interests of Commenter**

The ACA is a national nonprofit membership organization for canoeing, kayaking, rafting and paddling safety. ACA's members are individual canoeists, kayakers, rafters, and the paddling clubs to which they belong. ACA has regional divisions throughout the U.S., and 40,000 members in the U.S., Canada and overseas.

### **II. Comments**

The American Canoe Association is a part of the Choose Clean Water Coalition, which will be submitting detailed comments on the draft TMDL. ACA has joined these comments, and we urge EPA to review them carefully and adopt the recommendations contained therein.

We are writing separately to provide a few additional comments unique to the ACA and the recreational paddling community. The ACA has thousands of members in the Chesapeake Bay watershed, and we also represent many thousand others who are not members of the ACA but who enjoy paddling the waters of the Bay region. Because of the nature of our sport, we have direct contact with the waters of the Bay. Consequently, we have a strong interest in protecting and improving water quality.

Recreational paddling and other water-based activities play a prominent role in the lifestyles of the citizens of the Chesapeake Bay watershed. Many people live here because they like to paddle, fish, swim, sail and water ski in the Bay and its tributaries. Because of their connections to the water, the health of the Bay has an impact on the quality of life for the region's citizens.

In addition to the area's residents, many people travel to the region to take advantage of the Bay's recreational opportunities. Recreation-based tourism makes a significant and sustainable contribution to the region's economy. As the Bay's health deteriorates, fewer and fewer people will come here, and our economies will suffer. Strong action to improve water quality is needed if we are to continue to benefit from the economic activity generated by tourism in the Bay region.

No user group has a more intimate relationship with the waters of the Bay and its tributaries than the canoeists and kayakers who paddling these waters. Our sport puts us right down on and often in the water, and most paddlers get at least a little wet every time they paddle. While

the region's waters may seem visibly cleaner than in the past, the invisible problems also have a big impact on the user experience. Increased nutrient loads cause algal blooms and runaway growth of invasive species like Hydrilla, and in places where this occurs, the user experience for paddlers is completely destroyed. Other invisible problems can actually harm paddlers. Although no scientific data is available, we have anecdotally seen an increase in the number of paddlers who have gotten sick after contact with the Bay's waters. Unless action is taken, we expect this trend to continue.

Of course, we also know that marine life has been adversely affected. The populations of the Bay's signature species (oysters, blue crabs) have dramatically fluctuated, mostly trending downward. In addition, scientists have seen a range of illnesses and biological disruptions in fish and other species, conditions that are caused by poor water quality and the presence of complex compounds in Bay waters. This is a great tragedy, because without wildlife, the user experience on the Chesapeake loses its essential character.

The ACA's interest in improving water quality was our primary motivation for filing a lawsuit against the EPA in 1997, seeking to compel EPA to direct the state of Virginia to develop TMDLs for the state's rivers and streams, both within and outside of the Bay watershed. Our lawsuit and consent decree have brought about improvements in the state's water quality, but the job is nowhere near done.

We believe the development of a Bay-wide TMDL to be legally required by provisions of the Clean Water Act that have been in place for more than thirty years. We also believe it is required by our consent decree with EPA, combined with the consent decrees governing the waters of the District of Columbia<sup>1</sup> and Delaware,<sup>2</sup> and the Memorandum of Understanding signed by EPA and the State of Maryland in 1998. We urge the EPA to fulfill its obligations and adopt a strong TMDL for the Bay.

We were deeply disappointed to learn that some of the Watershed Implementation Plans offered by the states are flawed and unlikely to produce improvements in water quality at the pace required by the Clean Water Act, the consent decrees and the Chesapeake Bay agreements. We urge the EPA to use the authority it has to require the states to adopt meaningful and effective implementations plans that will meet or exceed water quality standards for the Bay.

As stated above, ACA joins with the comments of the Choose Clean Water Coalition, and would like to highlight several important aspects of the Coalition's comments for the EPA's consideration.

1. The Coalition's comments contain a detailed chronology of previous Bay restoration efforts. The long and tortured history of the Bay restoration process, and the decidedly mixed results it has produced, clearly demonstrate that more directive strategies are needed if the Bay is to be fully restored. Contrary to the assertions of some commenters, the process of restoring the Bay is moving TOO SLOWLY, not too quickly. We need strong action now to get this process back on track.
2. The Coalition's comments set forth a compelling argument that EPA has both the legal authority and a legal obligation to develop a Bay-wide TMDL. Section 303(d) of the Clean Water Act requires states to develop TMDLs that meet applicable water quality standards, and also requires EPA to step in and do so if a state is not able to satisfy this obligation. This requirement has been in place for more than thirty years. The consent decrees in the court cases confirm this obligation.

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<sup>1</sup> (*Kingman Park Civic Association v EPA*, 84 F. Supp. 2d 1 (D. DC 1999)).

<sup>2</sup> *American Littoral Society, et al. v. EPA, et al.*, No. 96-330 (D. Del.).

3. Attempts to question the validity of the computer models used to develop the Bay-wide TMDL are not based in science. They are a poorly disguised red herring meant to stir up blind opposition, in hopes of delaying or preventing implementation of this TMDL, and any other TMDL that relies on modeling. The reality is this: (a) There is no way to establish a TMDL without relying on models; and (b) The Bay model was developed through the careful work and review of dedicated scientific professionals. EPA should ignore these baseless attacks and have faith in the model.
4. In the long run, implementing the TMDL will be less expensive than not doing so, for several reasons.
  - a. Unless we intend to completely abandon the commercial and recreational fishing industries that rely on the Bay, we cannot afford to allow water quality to get any worse, or even allow it to remain as bad as it is now. These industries have suffered terribly from the effects of poor water quality, and their troubles have had significant adverse effects on the economy of the Bay region. Strong action is needed to revitalize these industries so that they can again contribute to the region's economy.
  - b. Much of the region relies on the Bay and its tributaries for drinking water. According to EPA's own study<sup>3</sup>, improving the quality of water in its natural setting is less expensive than treating that water to make it safe for drinking. As the region's population increases, demand for clean water will continue to grow. Allowing source water quality to continue to deteriorate will increase the costs of meeting future demand.
  - c. No discussion of the costs of implementing the TMDL is truly accurate or complete if it does not include an examination of the economic benefits of the investments in clean water technologies that would result from implementation of the TMDL. Upgrading sewage treatment plants and implementing agricultural best management practices will support several thousand jobs in the watershed. Focusing exclusively on the costs of mitigation fails to take into account these economic benefits.

### III. Conclusion

ACA thanks EPA for its efforts to adopt and implement a Bay-wide TMDL. Whatever resistance you face, we urge you to stay the course and do the right thing for the Chesapeake Bay and the citizens of the Bay region.

Thank you for the opportunity to comment.



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Executive Director



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General Counsel

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<sup>3</sup> U.S. EPA. *Economics and Source Water Protection*. Presentation by Eric Winiecki.